

Attorney Docket #: E6026-500  
App. Serial No.: 10/825,516  
Art Unit: 3641  
Amendment: June 22, 2007

### REMARKS

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This reply is responsive to the final office action mailed April 30, 2007 ("Office Action"). Applicant thanks the Examiner for the allowance of claims 7, 10, 11, and 17. Claims 1-6, 8, 12-16, 18, 19, and 22-25 stand rejected as discussed below. Applicant thanks the Examiner for indication of allowable subject matter in claim 26. Claims 1-19 and 22-26 remain pending in the application. No claims have been amended. Consideration of Applicant's remarks below and favorable reconsideration of the rejected and objected to claims with a view towards allowance is respectfully requested.

### CLAIMS REJECTIONS/OBJECTIONS

#### Rejections under 35 U.S.C. § 102(b)

Claims 1-6, 8, 12-16, 18, 19, and 22-25 stand rejected as anticipated by United States Patent 5,438,784 to Lenkarski et al. (hereafter "Lenkarski"). Claims 1, 12, and 22 are independent. This rejection is respectfully traversed for the reasons presented below and reasons presented in Applicant's prior amendment filed February 5, 2007 in response to a non-final Office Action (hereafter "Non-Final Amendment").

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

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Independent claims 1, 12, and 22 all similarly require a blocking member that directly engages the firing pin and an actuator that is movable in response to removing and inserting the magazine. The express limitations of these claims further require that the actuator be responsive to insertion or removal of the magazine from the pistol and interact with the blocking member to engage/disengage the blocking member from the firing pin depending on whether the magazine is present in the pistol. For example, claim 1 requires *inter alia* a blocking member movable into and out of engagement with the firing pin; and an actuator that disengages the blocking member from the firing pin when the magazine is inserted in the pistol and engages the blocking member with the firing pin when the magazine is removed from the pistol so that the firing pin is prevented from moving toward and contacting a cartridge in the chamber. Claims 12 and 22 contain similar limitations with respect to the blocking member and blocking member actuator. As explained below, Lenkarski does not teach or fairly suggest a mechanism having each and every one of the foregoing limitations as set forth by independent claims 1, 12, and 22. Therefore, Lenkarski does not anticipate these claims as a matter of law.

The Office Action states that Lenkarski discloses "a blocking member (reference 87) movable into and out of engagement with the firing pin." (Office Action, pg. 2, para. 3.) However, it is respectfully submitted that leg 87 is not movable at all with respect to firing pin 82. As commonly employed in striker-fired type pistol designs, leg 87 actually is a part of striker firing pin 82 that depends downward from the firing pin (See Lenkarski, Col. 3, lines 63-65). Accordingly, leg 87 does not move with respect to the firing pin as alleged in the Office Action and cannot be a blocking member as claimed that is movable to engage/disengage the

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firing pin. Therefore, Lenkarski does not teach or fairly suggest the blocking member limitation of Applicant's claims 1, 12, and 22.

Furthermore, as explained in Applicant's Non-Final Amendment, safety lever 20 of Lenkarski that responds to insertion/removal of the magazine merely engages the sear pin 32 when the magazine is removed to arrest movement of the sear 30 that engages and releases firing pin leg 87 to discharge the pistol. Assuming *arguendo* that safety lever 20 corresponds to the claimed actuator in Applicant's claims, lever 20 does not move any type of blocking member into or out engagement with firing pin 82 in response to removal/insertion of the magazine. Accordingly, Lenkarski also does not read on the actuator limitation.

In sum, Lenkarski does not disclose at least the claimed blocking member and actuator elements for the foregoing reasons. Because each and every element of independent claims 1, 12, and 22 are disclosed by Lenkarski, these claims are not anticipated Lenkarski. *Verdegaal Bros.*, 814 F.2d at 631. The fact that these claims use the transitional phrase "comprising" as stated in the Office Action (pg. 2, para. 1) does not alter that conclusion. "Comprising is not a weasel word with which to abrogate claim limitations." *Spectrum Int'l, Inc. v. Sterlite Corp.*, 164 F.3d 1372, 1380 (Fed. Cir. 1998). Accordingly, although "a transition term such as 'comprising' does not exclude additional unrecited elements...", *Id.* at 1379-80, Applicant's clear blocking member and actuator limitations cannot be ignored by broadly reading Lenkarski to disclose elements which simply are nowhere disclosed by that reference as recited in Applicant's claims 1, 12, and 22.

Favorable reconsideration and allowance of independent claims 1, 12, and 22 is respectfully requested. Applicant also respectfully requests favorable reconsideration and

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allowance of claims 2-6, 8-9,13-16, 18-19, and 23-26 that variously depend from independent claims 1, 12, and 22, and therefore contain all the limitations of their respective independent claims. These dependent claims should be allowable for at least the same foregoing reasons presented for independent claims 1, 12, and 22, and additional limitations added by this claims which further distinguish over Lenkarski.

### **Claim Objections**

Claim 26 stands objected to as being dependent from a rejected base claim (independent claim 22), but would possibly be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. For the reasons presented above, claim 22 is believed to be allowable. Claim 26 should therefore be allowable based on the allowance of claim 22 from which it depends. Favorable reconsideration and allowance of claim 26 is respectfully requested.

### **CONCLUSION**

In view of the foregoing, Applicant respectfully requests reconsideration and allowance of all pending claims. If the Examiner disagrees with the allowability of the claims, or if there are any remaining issues that may be resolved by telephone to expedite allowance, the Examiner is kindly requested to contact the Applicant's undersigned representative at 215.979.1554.

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Respectfully submitted,

Dated: June 22, 2007

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